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The evidence of hearsay in criminal proceedings from Late Renaissance France

TOM HAMILTON 

Elites throughout Renaissance Europe wrote disdainfully about the dangers posed to society by the circulation of rumour, gossip, and hearsay. Lawyers were among the most disdainful of them all. In his discussion of customary law in France, the jurist Antoine Loisel cited a proverb to make his point that knowledge based on hearsay was worthless. ‘Ouy dire va par ville, et en un muid de cuider n’y a plein poing de sçavoir’.¹ The lexicographer Randle Cotgrave translated the first part of the proverb as ‘Hearsay goeth speedily from doore to doore’.² The second part might be rendered as ‘there is no wisdom in a cupful of thoughts’. Loisel’s coupling apparently brings together two strands of discourse. The first is a classical critique of rumour based on its prevalence and ephemerality. ‘Extemplo Libyae magnas it Fama per urbes [Straight away rumour went through the cities of Libya]’ (Virgil, Aeneid, IV, 173).³ The second is a medieval vernacular disdain for popular knowledge that Loisel adapted by removing its social significance and stating it as a general principle of customary law. ‘Mais li vilains dit en son proverbe: Qu’en un muid de cuider / N’a plain pot de sapience [The plebs say in their proverb: A cupful of thoughts is no full pot of wisdom]’.⁴ In Loisel’s rendering, the

Research towards this article began as part of an ongoing collaboration with Mark Greengrass, the results of which will be published elsewhere. I would like to acknowledge his invaluable advice and encouragement during the research and writing of this article. For their comments and suggestions, I would also like to thank Rosanne Baars, John Gallagher, Adam Horsley, David van der Linden, Carla Roth, and the anonymous readers for the journal.

¹ Antoine Loisel, *Institutes coutumières d’Antoine Loysel, ou manuel de plusieurs et diverses règles, sentences et proverbes, tant anciens que modernes, du droit coutumier et plus ordinaire de la France*, ed. Édouard Laboulaye, 2 vols. (Paris: Videcoq, 1846), ii, 152.

² Randle Cotgrave, *A Dictionarie of the French and English Tongues* (London: Adam Islip, 1611), ‘Oui-dire’.

³ Annotations to Loisel’s collection of proverbs, composed primarily by the *avocat* in the Parlement of Paris Eusèbe de Laurière (1659–1728) and reproduced in Lanoulaye’s 1846 edition, trace the first part of the proverb to Angelus de Ubaldis, ‘Additiones’ (n.7) to Jacobus Aegidius, ‘De Testibus’ in Francesco Ziletti (ed.), *Tractatus universi iuris, Vol. 4, De Probationibus* (Venice: Francesco Ziletti, 1584), 75, a note that repeats a general point against hearsay evidence. On classical discussions of rumour and their reception, see Philip R. Hardie, *Rumour and Renown: Representations of Fama in Western Literature* (Cambridge: Cambridge University Press, 2012).

⁴ The annotations in Lanoulaye’s edition trace this section of the proverb via Antoine Le Roux de Lincy (ed.), *Le Livre des proverbes français*, 2 vols (Paris: Paulin, 1842), ii, 356, to *La Chronique de Rains: publiée sur le manuscrit unique de la Bibliothèque du roi*, ed. Louis Paris: Tecjener (Paris, 1837), 68.

proverb becomes a statement of customary law that instructs his readers – the judges, magistrates, and office-holders of late Renaissance France – to lament and ignore the regrettably frequent occurrences of rumour and hearsay in their society.

Despite Loisel's derision, literary scholars and historians have recently shown how a well-established written tradition concerning rumour and its critique could be appropriated, challenged, or reinforced in canonical ancient, medieval, and Renaissance literary and historical works.⁵ More than just an empty cup, as in Loisel's proverb, rumour in Renaissance culture might be better understood as a leaky vessel that is both void of sense and overflowing with meaning.⁶ Historians who have studied social relations and oral cultures across pre-modern Europe have further shown how the circulation of gossip, hearsay, and rumour had a crucial function that could strengthen the ties that bound together urban and rural communities in what remained a predominantly oral culture despite the arrival of the printing press.⁷ Historians of communication too have shown how diplomats, merchants, and officials in this period found it useful to circulate unverified reports despite the critique in Loisel's proverbs, as part of establishing a mastery of circulating information and establishing authority among their networks.⁸

The challenge remains, however, of establishing the ways in which people throughout the social hierarchy in Renaissance Europe evaluated the claims that circulated as rumours. Did most people share the disdain for hearsay that Loisel's proverb suggested, or did some fall prey to rumour while others evaded its traps? Social and cultural historians of rumour have read legal records 'against the grain', alert to revelatory moments in the sources, as part of their studies of the role that gossip and rumour played in pre-modern communities.⁹ However, the risk associated with this approach is that it might

⁵ Mark Greengrass, 'Rumeur et bien public dans les Ligues provinciales catholiques: l'exemple de Laon' in *La Sainte Union des catholiques de France et la fin des guerres de Religion (1585–1629)*, ed. Serge Brunet and José Javier Ruiz Ibáñez, (Paris: Éditions Classiques Garnier, 2016), 133–153; Emily Butterworth, *The Unbridled Tongue: Babble and Gossip in Renaissance France* (Oxford: Oxford University Press, 2016); Keith M. Botelho, *Renaissance Earwitnesses: Rumor and Early Modern Masculinity* (Basingstoke, 2009); Henk Van Nierop, "'And Ye Shall Hear of Wars and Rumours of Wars': Rumour and the Revolt of the Netherlands", in Judith Pollmann and Andrew Spicer (eds.), *Public Opinion and Changing Identities in the Early Modern Low Countries* (Leiden: Brill, 2006), 69–86.

⁶ Butterworth, *The Unbridled Tongue*, 197–9.

⁷ Significant studies of these issues include: B. S. Capp, *When Gossips Meet: Women, Family, and Neighbourhood in Early Modern England* (Oxford: Oxford University Press, 2003), 185–266; Adam Fox, *Oral and Literate Culture in England, 1500–1700* (Oxford: Oxford University Press, 2000), 335–405; Penny Roberts, 'Arson, Conspiracy and Rumour in Early Modern Europe', *Continuity and Change*, 12 (1997), 9–29.

⁸ See, for example, Rosanne M. Baars, *Rumours of Revolt: Civil War and the Emergence of a Transnational News Culture in France and the Netherlands, 1561–1598* (Leiden: Brill, 2021); Carla Roth, 'Obscene Humour, Gender, and Sociability in Sixteenth-Century St Gallen', *Past & Present*, 234 (2017), 39–70; Elizabeth Horodwicz, 'The Gossiping Tongue: Oral Networks, Public Life and Political Culture in Early Modern Venice', *Renaissance Studies*, 19 (2005), 22–45.

⁹ A particularly compelling study that takes this approach is Elizabeth S. Cohen, 'She Said, He Said: Situated Oralities in Judicial Records from Early Modern Rome', *Journal of Early Modern History*, 16 (2012), 403–430, which raises procedural matters as qualifications to the argument about the role of 'ordinary people's talk in the transcripts' on pp. 415–17.

serve to reinforce the assumptions of learned commentators who left a discerning engagement with rumour to literate elites. Histories of rumour written ‘against the grain’ in this sense focus on second-hand reports of the word on the street rather than the direct evidence of the word on the page, and so they have not engaged with the legal theory that structured the proceedings of a trial. The approach of this article is instead to read legal records ‘along the archival grain’ in order to focus on the procedures and conceptual assumptions deployed by the people who produced these records. How did the magistrates, scribes, and deponents interact in the process of recording interrogations? What standards of evidence did they put to the test? And what kinds of legal knowledge do these records represent?¹⁰

The result of this approach is to reveal how people across pre-modern Europe, and Loisel’s society of late Renaissance France in particular, had a robust means of evaluating the epistemological status of rumour which was informed by the Roman law of proof as it concerned hearsay. The Roman law of proof distinguished valid witnesses – who had a direct, eyewitness view of events, and should not be biased either in favour of the accused or against them – from invalid witnesses who could not be trusted, although jurists permitted magistrates a significant degree of discretion in discerning the status of the witnesses examined during the course of an investigation.¹¹ Roman law primarily informed the practice of elite magistrates, yet non-elites who gave testimony as part of inquisitorial procedures also understood well its basic principles and might manipulate them to their own ends.¹² This article demonstrates that deponents’ storytelling skills in court extended to a firm grasp of the value of hearsay evidence. The ways in which deponents manipulated hearsay evidence, moreover, suggests that non-elites understood the dangers of the unbridled tongue, but also that they were willing to cite gossip if it suited them at a telling moment during an interrogation. Their law-minded approach to criminal proceedings suggests that such an understanding of the epistemological status of hearsay spread far outside the courtroom too. In this sense, the gap between Loisel’s world of elite magistrates and the wider society on which they sat in judgement seems smaller than either Renaissance jurists or modern historians have allowed.

¹⁰ This approach builds on the conceptual terms of Lawrence Rosen, *Law as Culture: An Invitation* (Princeton, NJ: Princeton University Press, 2006) and the methodological implications of Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton, NJ: Princeton University Press, 2009).

¹¹ For an overview of the legal principles, see Mirjan R. Damaška, *Evaluation of Evidence: Pre-Modern and Modern Approaches* (Cambridge: Cambridge University Press, 2019), esp. 27–117, and on some of the problems they raise see Penny Roberts, “Acceptable Truths” during the French Religious Wars’, *Transactions of the Royal Historical Society*, 30 (2020), 55–75; Andrea Frisch, *The Invention of the Eyewitness: Witnessing and Testimony in Early Modern France* (Chapel Hill, NC: University of North Carolina Press, 2004).

¹² The classic statement of this point is Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford, CA: Stanford University Press, 1987).

1. 'EX AUDITO ALIENO'

The best guide to the Roman law of proof in Renaissance France was the learned jurist and experienced magistrate Jean Milles de Souvigny, whose treatise *Praxis criminis persequendi* was first published in Paris in 1541, then reprinted in Lyon and Venice in the 1540s and 1550s, was widely consulted across the European legal community of the *ius commune*. His text served to demonstrate how the principles of Roman law aligned with the correct way to proceed in French criminal justice, following the major consolidation of court practice represented by the *ordonnance* of Villers-Cotterêts in 1539. Hearsay encompassed several types of evidence for Souvigny. It included common rumour or renown, reported direct speech, and reported indirect speech, all of which he described as hearsay, evidence overheard (*ex auditu*) and heard from a third party (*ex auditu alieno*). Souvigny began his analysis of hearsay evidence by stating firmly that 'the evidence of something that has been heard from someone else has no value as proof', a point that appears in similar terms in the criminal code known as the Carolina of the Holy Roman Empire (1532) but not in any French royal *ordonnance*, since those texts were intended more as guides to institutional processes than substantive legal codifications.¹³ The image that accompanied Souvigny's discussion of hearsay evidence demonstrated his point, as it depicted in the top-right corner a witness who overheard what turned out to be a deadly fight at the public square below, but he did not have a clear view from behind his window and so Souvigny explained that the court could not count his evidence as valid proof (Fig. 1).¹⁴ Yet Souvigny went on to develop a more flexible position than these general points might suggest. In a gloss he had established that common-fame evidence could be taken into account, so long as an earwitness named their source as an eyewitness who had been cross-examined. Much depended on whether the testimony made sense compared with other evidence or in the light of natural reason, Souvigny continued, for if it was inconclusive, irrational, or not pertaining to the case, then it could prove nothing at all. In the remainder of the gloss, Souvigny explained that what a witness believes they have heard or seen cannot be considered without supporting proof because they might be mistaken in their apprehension. All of these glosses depended on a dense network of references to Bartolist commentaries on the chapters 'On Witnesses [De Testibus]' in Justinian's Codex IV.20 and Digest 22.5.¹⁵

¹³ Jean Milles de Souvigny, *Praxis criminis persequendi* (Paris: Simon de Colines, 1541), fol. 13; Fredrich-Christian Schroeder (ed.), *Die Peinliche Gerichtsordnung Kaiser Karls V. (Carolina) und des Heiligen Römischen Reichs von 1532* (Stuttgart: Reclam, 2000), 54.

¹⁴ Souvigny, *Praxis criminis persequendi*, fol. 13.

¹⁵ For a comprehensive discussion of hearsay in the Roman law tradition, see Prospero Farinacci, *Tractatus de testibus* (Venice: Giorgio Varisco, 1609), fols. 233r–46v, analysed in Damaška, *Evaluation of Evidence*, 101–4. A critical vernacular French discussion of this issue appears in Guillaume Jaudin, *Traité des tesmoings et d'enquestes* (Paris: Jeanne de Marnef, 1546), fols. 101r–102v.

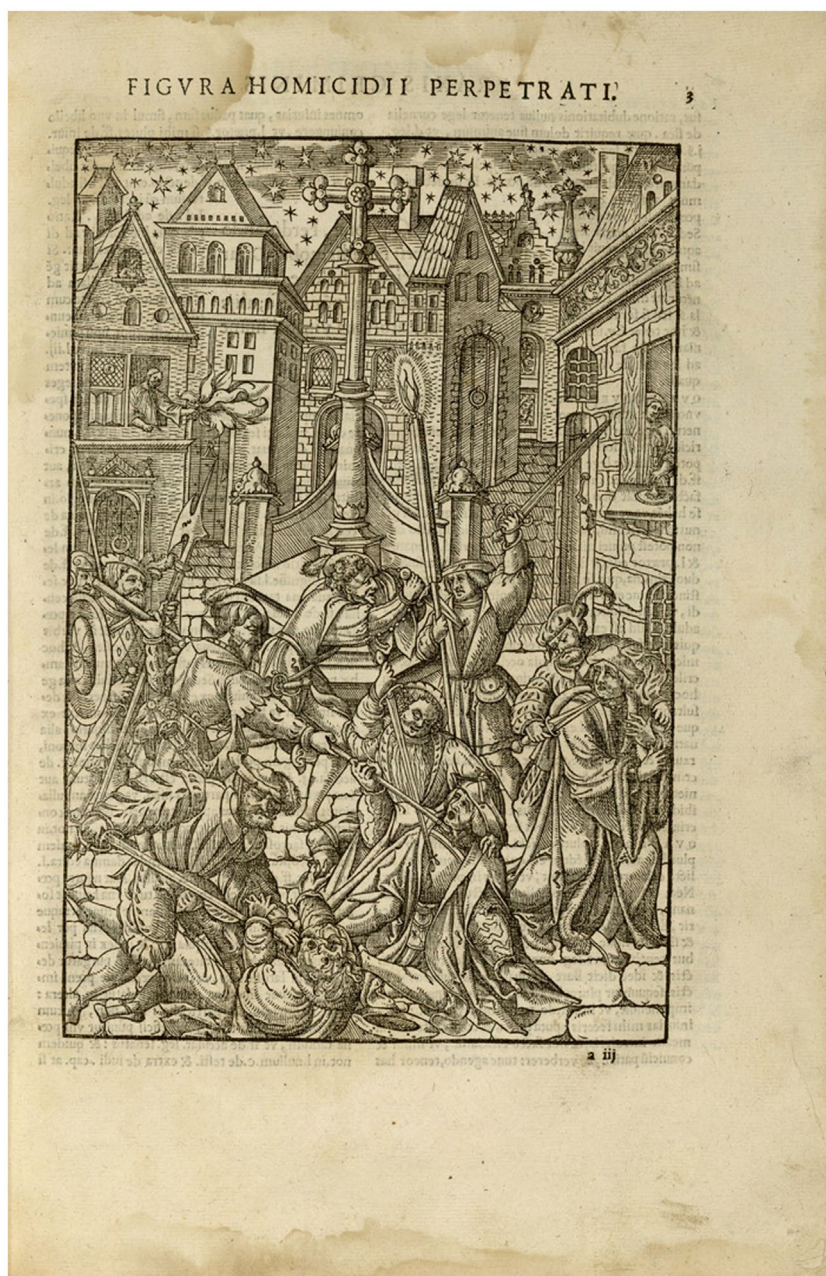


Fig. 1 Jean Milles de Souvigny, *Praxis criminis persequendi* (Paris, 1541), fol. 3^r (Bibliothèque municipale Orléans)

Ultimately, Souvigny suggested that hearsay merited attention whatever its limits.

Did practice correspond with theory? And, more specifically, what role did the evidence of hearsay play in criminal proceedings from late Renaissance France? In order to examine the evidentiary value of hearsay in practice, this article analyses a major series of homicide interrogations conducted as part of the preparatory or information-gathering stage of criminal proceedings in the high court of the Parlement of Paris, which represent some of the lengthiest and most considered evaluations of oral evidence of any criminal archive in Renaissance Europe.¹⁶ Anybody condemned by a criminal court in France to a sentence of corporal punishment or one of equal severity had the right for their case to be heard on automatic appeal by a *parlement* with the cost of the appeal paid for by the subaltern court, often funded by the prosecuting party acting as plaintiff (*partie civile*).¹⁷ This automatic appeal system ensured that the *parlements* could act as a check on the potentially over-zealous sentences given by their subordinate courts. As a court of appeal, the Parlement heard up to 800 cases concerning serious crime each year, drawn from subordinate courts as far as Lyon in the south and La Rochelle in the west. The Parlement saw its role primarily as a court of appeal, 'a sanctuary like the cities of refuge to which the children of God withdrew when they were pursued' in the terms of the *avocat général* Louis Servin during a hearing in the court's audience chamber in 1586.¹⁸ The cases considered here show that the Parlement also accepted cases from litigants who made use of its justice directly when it acted as a court of the first instance or in order to confirm pardons issued by a chancery.¹⁹ Quantitative analysis demonstrates that hearsay plays a numerically small role in the sample of cases analysed here.²⁰ What matters more than the frequency of appearances of these terms, however, is what significance the presiding judge gave to them. The magistrates in the Parlement of Paris generally steered their witnesses in interrogations away

¹⁶ The sample of 148 cases analysed in this article represents all those labelled 'assassination', 'homicide', and 'murder' in an inventory of the *instruction* series in the Parlement from the earliest case in 1570 until the end of the catalogue in 1623 (Archives nationales (hereafter AN) Inv.451^{1er}, covering AN X2B 1174–84). The analysis particularly focuses on fifty-six cases from that catalogue, selecting those for which it has been possible to identify the various stages of the case proceedings through record-linking with other series in the criminal archives of the Parlement, notably the registers of incarceration kept in the Archives de la Préfecture de Police (hereafter APP) AB 3–26. On feuding and homicide tried before the Parlement and other jurisdictions in this period, see Stuart Carroll, *Blood and Violence in Early Modern France* (Oxford: Oxford University Press, 2006).

¹⁷ For an overview of the Parlement's jurisprudence in this period, see Yves-Marie Bercé and Alfred Soman, 'Les archives du Parlement dans l'histoire', *Bibliothèque de l'École des chartes*, 153 (1995), 267–73; Alfred Soman, 'La justice criminelle, vitrine de la monarchie française', *Bibliothèque de l'École des chartes*, 153 (1995), 291–304.

¹⁸ Bercé and Soman, 'Les archives du Parlement', 265.

¹⁹ The limited sample of fifty-six record-linked homicide cases in the instructions series introduced in n.16 consists of twenty-six cases tried by the Parlement in the first instance and thirty cases related to a pardon plea.

²⁰ Among almost 200,000 words of interrogations for the limited sample of fifty-six record-linked homicide cases, the crucial term for hearsay – *ouy dire* – and cognate forms such as *ouy parler* or *ouy par bruict commun* appear in just 172 question and answer pairs.

from questions of hearsay and onto issues that they could confirm with direct eyewitness testimony. And the litigants knew well what kind of evidence might contribute to a case and what the court might cast aside. Yet if the legal doctrine holds true that two eyewitnesses were necessary for a full proof, was the evidentiary arithmetic so elementary, and how far were magistrates, witnesses, and the accused willing to deviate from it?

2. 'THAT'S JUST HEARSAY'

When hearsay evidence did appear during interrogations conducted in the criminal chamber of the Parlement of Paris, the court scribe typically marked it out as evidence by 'ouy dire [hearsay]', or more rarely 'bruit commun [common rumour]' and 'rumeur [rumour]', and these terms framed third party oral evidence in these witness depositions for homicide, as it did in Souvigny's conceptual discussion.²¹ Allegations made by common rumour invoked knowledge that was widely established as being true and therefore worth investigating by the court, backed by an assumption that it should not be hard to find eyewitnesses to confirm the point.²² Along these lines, most homicide investigations included a stock question as to whether the accused had a long-standing quarrel with the victim.²³ Quarrels depended on renown, and gossip about them spread easily, an association that Charles d'Aguerre exploited as he denied he was engaged in a feud with the deceased sieur de Bazauge, saying that 'a common rumour that was circulating' told of their quarrel but when he asked his rival 'whether or not this is true' he denied it.²⁴ In this way, d'Aguerre pre-empted potentially contradictory witness testimony by equating it with mere gossip. A stock question about the background to a quarrel could thereby set the scene for an interrogation but rarely served to gather affirmative evidence since it was simple to dismiss.

Moments when hearsay appeared in the course of interrogations can reveal the ways in which magistrates attempted to place limits on its evidentiary value. Sometimes the magistrates in the Parlement themselves asked witnesses about matters of hearsay and so kept control over its presence in the courtroom. The *conseiller* Gaston de Grieu interrogated a group of royal officeholders in 1601 accused of murder, pillage, and rebellion in the village of Civry in the Loire valley. Grieu struggled to sift through the various crimes of which they had been accused. Interrogating the *sergent* Jean Huidoc, keen to piece conflicting reports together, Grieu asked Huidoc 'if he knows Michel

²¹ Milles de Souvigny, *Praxis criminis persequendi*, fol. 13.

²² Damaška, *Evaluation of Evidence*, 103–4.

²³ A guide to conducting interrogations in cases of homicide in this period is provided in Claude Le Brun de La Rochette, *Le Procès criminel divisé en deux livres* (Lyon: Jacques Roussin, 1610), bk. ii, 58.

²⁴ AN X2B 1181, 1611-08-19. 'A dict que cela ne se trouvera point bien recogneust qu'en ce temps on fait courir un bruit au pais que le sieur de Bajauges luy debvoir donné des coups de bastons vouloit scavoir d'ou venoit le bruit et feit demande aud. sieur de Bazain s'il estoit veritable, lequel dist que non.'

Gorin, a notary at Civry, and whether he has heard it said that his house was robbed in the night?' Hidoc replied that 'he knows Gorin and has heard it said that Gorin's house was robbed and that Gorin is married to his [Huidoc's] cousin ... He said that Gorin told him that he did not know who did this and that Gorin told him to investigate it'.²⁵ In this case, the *conseiller* Grieu reinforced his enquiry into hearsay by naming a particular victim of theft – the notary Michel Gorin – while Huidoc's reply not only reported what Gorin had told him but justified the report since Gorin had married his cousin. As the jurists recommended, in this case Grieu's rare but exemplary recourse to a question concerning hearsay was justified by the range of crimes he was investigating and it was circumscribed by enquiring about a particular reported conversation.

Hearsay, rumour, and reputation played a particularly important role in the confrontation of witnesses. According to the 1539 *ordonnance* of Villers-Cotterêts (articles 153–7), after the presiding magistrate had taken a first initial deposition he then confirmed witnesses in their testimony and confronted the witnesses with the accused. He then gave the accused a chance to offer reproaches and argue that the witness' testimony should be considered invalid, and finally he asked the accused to confirm or deny the witness' testimony read to them. This procedure was especially lively in the case of Michel Josset, a former assistant to a tax official in Mortain, who was accused of killing Jehan Doissie, sieur de Touchet. Josset denounced the witnesses that his opposing party set against him as false and suborned, as thieves, fornicators, and jealous litigants. For example, Josset told the court that the witness Jacques Champs would say what he was told for money, that 'he had taken part in a robbery from Pierre Guillard and tried to settle that case out of court with a notary', that he was a 'thief in the night' who 'boasted' of another grain theft, and that 'he had killed his first wife'. Champs replied that his wife lived at home with him and that he was a good man, and the court did not give Josset the chance to back up his claims, which he based on Champs' renown alone.²⁶ During witness confrontations the court served as a privileged space for slander. The witnesses could try anything as a reproach, proffering 'any injuries and villainies they like without fear of retribution', as the jurist and magistrate Ayrault lamented.²⁷ Many like Josset fired a barrage of allegations,

²⁵ AN X2B 1178, 1601-07-02, 1601-07-09. 's'il cognoist Michel Gorin notaire a Civry et s'il a ouy dire que sa maison a esté vole de nuit ? A dict qu'il le cognoist et luy a ouy dire que sad. maison avoit esté vole et a espousé la cousine de luy respondant. Interrogé qui il accusoit d'avoir volé sad. maison ? A dict qu'il disoit aud. respondant qu'il n'en scait rien et prie led. respondant de s'en requérir.'

²⁶ AN X2B 1175, 1581-05-20. 'que led. tesmoin a assisté en la vollerie qui a esté faict en la maison de Pierre Guillard contrerolle du sieur de Touchet des il a cherché de composer avec luy par le notaire et y en a contraint passé'. 'a dict pour reproches que led. tesmoin est ung meurdrier qui a tué sa premiere femme ... est larron et volleur de muyt qui a desrobé aux boisseaulx ... qu'il s'est vanté que estant de retour il ny auroit sans farine ... Par led. tesmoin a esté dit qu'il est homme de bien et que sa femme est en sa maison et n'en a jamais d'autre et desnye tous lesd. reproches'.

²⁷ Pierre Ayrault, *L'Ordre, formalité et instruction judiciaire* (Paris: Michel Sonnius, 1604), 505.

although not every claim had force behind it unless it could be justified by further witnesses. The accused in these confrontations had to play a difficult numbers game, knocking out enough witnesses to leave not even two eyewitnesses standing. Josset was fortunate: freed but required to spend three months available to the Parlement to be recalled in case more evidence was forthcoming that proved his guilt.²⁸

Inquisitorial procedures in late Renaissance France included mechanisms that might have generated significant amounts of testimony based on hearsay. In this sense it is notable that the sample of record-linked cases involves almost no references to the procedure known as the *monitoire*, a summons issued at Sunday mass calling for witnesses to come forward with evidence that often proved circumstantial and not directly relevant to the case at hand.²⁹ A rare mention of this procedure appears when the labourer Augustin Alexandre claimed he had ‘not heard the summons that were published’ against Pierre Caillet, who was accused of killing Jean de Beaumont nine years earlier. When Caillet led Beaumont into a wood outside Reims, they stopped and Caillet called the signal to his accomplices hiding with arquebuses.³⁰ Perhaps Caillet’s release without charge was in part due to the weak evidence against him that depended on hearsay gathered by the *monitoires* and repeated in the Parlement’s criminal chamber by the merchant Auger de Haulmont, ‘who said that he knows nothing about the affair apart from what he has heard by the common rumour in the region, which is that he [Beaumont] was killed in August that year [1577]’.³¹ Procedures such as the *monitoire* existed to announce publicly a call for evidence, but the association between a *monitoire* and hearsay appears too strong to have led the magistrates in the Parlement to focus on evidence gathered in that manner during earlier stages in proceedings.

Uses of the term hearsay mostly came before the court unsolicited in the responses of the witnesses. When hearsay did appear it usually came in the form of denials. The examples that accompanied the definition of the term *ouy dire* in the 1694 *Académie française* dictionary attached it to a dismissal: ‘I do not know about that, I have only heard it said’ or ‘That is just hearsay’.³² Claude de Salmon, who allegedly arranged for her lover to kill her husband, used hearsay emphatically to reject the accusation that her cousin La Haye and her lover La Pointe lent her forty *livres* to pay her host to buy tools from a cobbler that La Haye used to beat her husband to death. Salmon had ‘never

²⁸ APP AB 7, fol. 22v, 1581-04-08.

²⁹ Eric Wenzel, ‘Forcer les témoignages: le délicat recours au monitoire sous l’ancien régime’ in *Les Témoins devant la justice: une histoire des statuts et des comportements*, ed. Benoît Garnot (Rennes: Presses Universitaires de Rennes, 2003), 83–90.

³⁰ AN X2B 1176, 1586-08-13. ‘a dict qu’il n’a ouy publier lesd. monitoires et ne scayt si on en faisoit quelque poursuite’.

³¹ APP AB 9, fol. 230v, 1586-08-27; AN X2B 1176, 1586-08-13. ‘qu’il n’en peult rien scavoir sinon par le bruit commun du pais qu’il fut tué le lendemain de la mois de l’aoust’.

³² *Le Dictionnaire de l’Académie française dédié au roy*, 2 vols (Paris: la veuve de Jean-Baptiste Coignard and Jean-Baptiste Coignard, 1694), ii, ‘Ouy dire’.

heard tell of this accusation and denied it as false', so false indeed that it was not even the subject of gossip.³³ After persistently denying the charge of conspiring to kill her husband she was sentenced to a short period of imprisonment.³⁴ The common formula that Salmon repeated – 'I have not even heard tell of that' – accounts for the majority of uses of hearsay as a defence strategy, part of a vocabulary of denial that proved a safe means to negotiate interrogations in the criminal chamber of the Parlement when the magistrates so rarely had recourse to torture, and when they did they only extracted confessions in exceptional cases.³⁵ Indeed, by claiming that 'I have not even heard tell of that', a witness was insisting to the magistrates that the court had no grounds for torturing them to obtain further information, since there was not even a half proof based on renown that might support the allegation.

Although statistical analysis shows that the Parlement rarely extracted confessions by torture, in the cases when torture did apply it inflicted excruciating pain on the accused in ways that changed the dynamic of an interrogation.³⁶ In the case of torture involving François Simon hearsay appears as a frequent denial that the accused used as he pleaded for the pain to stop. Standards of evidence drop in this interrogation under torture conducted by the *conseillers* Jérôme Angenoust and Hardouin Fourcher, as Simon gave these magistrates the names of people associated with the death of the sieur de Marolles and who the court should plausibly be torturing instead of him.

- He was asked if he agreed to kill Marolles and whether he followed through with this?
- He said that he heard his father say that the sieur de La Grouillère was there. He cannot say whether this is true, but from what people say Le Noir and La Grouillère and Le Gascon were there.
- He was wracked and then asked again, who fired the shot?
- He said that he heard that it was La Lande who fired the shot and that La Grouillère, Le Gascon, and Le Noir were there but he only knows this by hearsay.³⁷

³³ AN X2B 1178, 1601-12-31. 'A dict qu'elle n'en a jamais ouy parler et est desnya faulseté et meschament inventée.'

³⁴ APP AB 15, fol. 233r, 1602-05-31.

³⁵ For a statistical approach to the application of torture in the Parlement of Paris, see Alfred Soman, 'La justice criminelle au XVI^e et XVII^e siècles: le Parlement de Paris et les sièges subalternes' in Soman, *Sorcellerie et justice criminelle: le Parlement de Paris (16^e–18^e siècles)* (Aldershot: Variorum, 1992), 38–49.

³⁶ For a recent synthetic account of the role of torture in inquisitorial proceedings, see Sara Beam, 'Violence and Justice in Europe: Punishment, Torture, and Execution' in Robert Antony, Stuart Carroll, and Caroline Dodds Pennock, (eds.), *The Cambridge World History of Violence, Volume 3, AD 1500–AD 1800* (Cambridge: Cambridge University Press, 2020), 390–4.

³⁷ AN X2B 1176, 1582-05-03. 's'il y avoit pas comploté de tuer Marolles et enquis qui l'a tué apres ? A dict qu'il ouyt dire a son pere et a La Lande si le sieur de Grenouillere y estoit. A dict qu'il n'en scayt rien, a dict que on disoit que Le Noir le sieur de La Greouillere et Le Gascon y estoient. Luy a esté baillé le treteau et est soutenu. Enquis qui a tiré le coup ? A dict qu'il a ouy dire que c'est La Lande qui a tiré et on dict que La Greouillere y estoit et Le Gascon et Le Noir n'en scayt rien que par ouy dire.'

Simon's hearsay evidence perhaps seemed more acceptable in the torture chamber where such weak claims could not escalate the interrogations into further violence since the court had reached the limit of judicial violence available in its proceedings. And by suggesting names of accomplices he knew only by hearsay – such as La Grouillère, who had been arrested alongside him – Simon offered the magistrates reason to end the torture proceedings satisfied with the information he had given them. La Grouillère in his interrogation under torture denied the allegations and insisted Simon wanted to do him harm. Simon's strategy worked in part, as La Grouillère was sentenced to banishment and to pay reparations to the family of the victim, while Simon and Le Noir had their case demoted to a lesser dispute (*procès ordinaire* as opposed to the *procès extraordinaire* of a full criminal trial) where it might be settled financially.³⁸ Simon's hearsay evidence against La Grouillère was supported by the eyewitness testimony of his brother Gilles Simon, condemned to death for the homicide and executed a few weeks earlier. But this case came from Étampes on appeal, so the initial interrogations were sent back along with the prisoners following the judgement of the Parlement, and it is impossible to determine the strength of the evidence produced against the parties.

A final category of hearsay evidence concerns testimony in which witnesses quoted the direct speech of a third party. This sort of evidence falls firmly under the modern common law hearsay rule and raises common problems in its evaluation, but Renaissance jurists were more circumspect in limiting the term hearsay to oral evidence gathered *ex auditu*.³⁹ As so often in questions of practical jurisprudence in this period, no guidance is to be found in the French royal *ordonnances*, which gave clear instructions to structure the correct procedure for gathering witness evidence but rarely on how to interpret it. In order to highlight direct reported speech to the judges, criminal scribes often indicated it in their transcriptions by using a slightly larger hand, italics, or using a phrase such as 'and he said in his own words', serving to highlight how much of the rest of the oral evidence gathered is a summary report written up in the third person to suit the record-keeping of the court.

The most frequent examples of direct evidence of overheard speech presented to the Parlement in homicide cases came in witness reports of overheard insults that provided a vivid basis for determining whether a killing was premeditated.⁴⁰ Claude Duchêne, sieur de Crays, aged twenty-eight, sought pardon for killing his older brother François Duchêne by pleading the death was an accident.⁴¹ Direct reported speech from their fatal encounter in the woods outside Crays formed Claude's best argument that the killing came in

³⁸ APP AB 8, fol. 110r, 1582-01-22.

³⁹ Mirjan Damaška, 'Of Hearsay and Its Analogues', *Minnesota Law Review* 76 (1992), 436–9.

⁴⁰ For many such examples in two recent editions of remission letters, see *Guerre civile et pardon royal en Anjou (1580–1600): lettres de pardon entérinées par le présidial d'Angers*, ed. Michel Nassiet (Paris: Erudist, 2014) and *Les Lettres de pardon du voyage de Charles IX (1565–1566)*, ed. Michel Nassiet (Paris: Société de l'histoire de France, 2010).

⁴¹ APP AB 7, fol. 96r, 1581-11-27; AN X2B 1175, 1581-11-29; AN X2B 120, 1582-07-20.

the heat of the moment, because of François' aggression, and therefore should be eligible for pardon. In the interrogation before the Parlement, Claude reported how François had asked him for money but Claude calmly refused and insisted he had no more to lend, insisting '*as you wish my brother but I do not have any money*'.⁴² François escalated the dispute as he cried '*By God you will give it to me*', before he took out his arquebus and 'chased Claude, putting him on the back foot'.⁴³ Next François tried to shoot him, but his arquebus would not fire. He drew his sword and charged at Claude to try to kill him. Claude insisted that his only option was to draw his arquebus in return, but this went off accidentally and the shot killed François. In the accompanying remission letter, François' speech appeared more threatening – '*and by God I will have the money, my boy*' – and Claude's response even calmer 'responding graciously in these words, '*my brother I owe you nothing and I cannot lend you money as I already lent you money on the feast of St. John last*'. In this version, François again escalated the discussion by 'swearing and blaspheming as was his want, in a fit of anger', before the fatal attack took place.⁴⁴

Claude Duchêne's testimony, both in the interrogation and the remission letter it confirmed, addressed the demands of homicide law that permitted pardon in the event of an accidental killing committed in the heat of passion.⁴⁵ Comparing the two documents, both testimonies were mutually reinforcing. The remission letter gave slightly more detail about events and made a more elaborate justification of the killing, since the scribe had more time to prepare it as a neat, parchment copy compared to the draft 'minute' of the interrogation. Perhaps he copied the passage in the remission letter from the record of a previous interrogation.⁴⁶ Most significantly, the combined force of Duchêne's testimony in both the interrogation and remission letter lay in the direct reported speech that confirmed François had started the argument and threatened to kill the defendant Claude with his unbridled tongue. Accurate recording of the direct reported speech between the interrogation and the remission letter confirmed the outcome of the case, so that Duchêne was ordered to pay a fine of ten *écus* to his parish and another ten *écus* to the poor in lieu of the far heavier death penalty he otherwise might have faced.

⁴² AN X2B 1175, 1581-11-29. '*comme voules vous mon frere d'argent il n'en ay pas.*' The italics in the transcriptions presented here follow the practice of the manuscript to indicate reported speech.

⁴³ AN X2B 1175, 1581-11-29. '*Mort-Dieu, teste-Dieu tu m'en baillies*', 'led. respondant se retira et fut poursuivy par led. defunct et se meyt led. defunct en rebours'.

⁴⁴ AN X2B 1175, 1581-11-29. '*et quoy mortdieu je n'auray donc d'argent mon mignon,*' '*mon frere je ne vous en doibs point et quand je vous devay je vous en bailleray, je vous ay avancé le tout de Sainct Jehan fors declarer que je vous ay lors que je vous les devay*', 'jurant et blasphemement comme de coustume et en grande collere'.

⁴⁵ Davis, *Fiction in the Archives*, 7, 36–76.

⁴⁶ Ayrault, *L'Ordre, formalité et instruction justiciare*, 525, laments this practice, which Davis, *Fiction in the Archives*, 162 n.55, points out is contrary to formal procedure.

3. 'WE MUST KILL THE HOUSE OF CHARLUS, EVEN THE CATS AND THE DOGS'

The cases discussed so far reinforce the general assertion that the magistrates of the Parlement as well as the witnesses they interrogated generally avoided evidence from hearsay and instead sought to establish facts in the courtroom through direct eyewitness evidence. By contrast, the investigations into the assassination of Jean de Lévy, conte de Charlus, demonstrate a particularly significant range of ways in which witnesses made assertive use of the term hearsay in the course of their interrogations. Indeed, to an extent the outcome of this trial depended on the use and manipulation of hearsay evidence. This case is the largest in the sample, involving twenty witnesses.⁴⁷ Charlus' widow, Diane de Daillon, instigated the case as plaintiff (*partie civile*), and the *conseiller* in the Parlement Guillaume des Landes led the investigations. The accusations focused on Balthazar de Gadagne, sieur de Champroux and his kin, who allegedly plotted to kill Charlus as well as his son and his lackey in an armed confrontation that took place on Thursday 20 October 1611.⁴⁸ The Gadagne clan claimed to be returning from a hunting trip that day when they encountered Charlus and his party, but the confrontation exploded as the culmination of years of friction between Champroux and Charlus over land-holdings and local politics that dated back to the 1590s.⁴⁹ The skirmish on 20 October 1611 resulted in the deaths of both Champroux and Charlus. In its aftermath the Gadagne clan retreated to the château de Champroux, where the archers of the *lieutenant criminel* of Moulins put them under siege. The archers arrested the key suspects and their lackeys, but only after many others in the Champroux clan fled the scene after allegedly bribing the magistrates with wine. The investigation by the Parlement initially proceeded at Nevers, beginning on 8 December 1611, while the suspects remained imprisoned in nearby Moulins. In the next stage of the proceedings, the Parlement evoked the case on 17 February 1612 and it continued in Paris thereafter.⁵⁰

The first important instances of hearsay in the testimony gathered in the Parlement for Grossouvre's case appear when the lackeys tried to distance themselves from complicity in the crime, and argued instead that their masters alone plotted and executed the assassination. Estienne Moranbour, lackey of Grossouvre's son Louis de Grivel, sieur de Saint Aubin, said that his master 'tended not to discuss serious matters such as this before his servants and he

⁴⁷ The key records for this case are AN X2B 1181, 1611-12-08–1612-03-14; AN X2A 974, 1612-07-07, 1612-07-09, 1612-07-12; AN X2B 269, 1612-07-21.

⁴⁸ Others in the party of the sieur de Champroux escaped justice and were condemned to death in effigy: AN X2A 974, 1612-07-10; AN X2B 269, 1612-07-21.

⁴⁹ For an analysis of this feud, see Stuart Carroll, 'Vengeance, Kinship Solidarity and Affinity in Late-Medieval and Early Modern France' in Véronique Gazeau and Jean-Philippe Genet (eds.), *Liens personnels, réseaux, solidarité en France et dans les îles Britanniques (X^e–X^e siècles)* (Paris: Éditions de la Sorbonne, 2006), 76–9.

⁵⁰ AN X2B 269, 1612-07-21.

never heard tell of this affair on his lands'.⁵¹ And when the confrontation happened 'he heard the gun shots' but 'because he was four or five hundred feet away ... he did not know who had fired them'.⁵² Michel Dumars, Champroux's *sommelier*, was asked 'whether he had several times heard of his master's rivalry with Charlus' during his fifteen years of service, but he denied this, as did almost all the lackeys, and claimed he stayed at home to serve the dame de Champroux rather than join the hunting party.⁵³ Sometimes these denials seemed implausible to the presiding magistrate des Landes. Claude Roupet, lackey of Champroux's client the sieur de Navière, claimed he had 'not even heard tell' of Charlus' death, and when des Landes demanded he tell the truth Roupet insisted that 'he only heard tell of the assassination when the archers [of the *lieutenant criminel* of Moulins] arrived', when 'they surrounded the château de Champroux'.⁵⁴ This was when the archers arrested all the lackeys as suspects and brought them to the prison of Moulins. The prisoners claimed to learn about the details of the case only once they had been locked up. Jean Tiger, lackey of Champroux's cousin Gaspard de Gadagne, sieur de Verdun, protested that, although he may have followed the party away from Grossouvre and towards the confrontation with Charlus, he did not know the names of the noblemen who surrounded him, and 'only heard them named later from other lackeys in the prisons later'.⁵⁵ Jacques de Briont said he had only heard tell of the rivalry between Champroux and Charlus 'on the low roads to Moulins', although he had allegedly carried letters for Champroux over the previous months.⁵⁶ Hearsay came easily to the lips of these lackeys and clients as they tried to distance themselves from the crimes of their masters. In this instance, inferior social status and a place outside informal gossip networks served as a useful way for the lackeys to distance themselves from suspicion.

Inquisitorial judges knew, as the jurist and Angers magistrate Pierre Ayrault put it, that in these troubled times 'the dexterity and industry that has always been required of a magistrate to successfully examine and investigate a crime' needed to be supplemented with 'guile and finesse if he wants to wheedle something out of a suspected criminal'.⁵⁷ The magistrate in charge of the Grossouvre case, Guillaume des Landes, used all of his 'guile and finesse' by

⁵¹ AN X2B 1181, 1611-12-12. 'son maitre n'est pas accoustumé de dire en sa presence aulcune chose et n'en ouit parler aussy aux terres.'

⁵² AN X2B 1181, 1611-12-12. 'A dict qu'apres qu'il fut a quatre ou cinq cens pas plus loing dud. bois et petite riviere il ouyt bien tirer des coups de pistoles mais ne scait qui tira lesd. coups.'

⁵³ AN X2B 1181, 1611-12-10. 's'il a ouy plusieurs fois parler au sieur de Grossouvre du different qui estoit entre son maitre et le sieur de Charlus ? A dict que non.'

⁵⁴ AN X2B 1181, 1611-12-12. 'A dict qu'il n'en ouit jamais parler. Interpellé de dire verité. A dict qu'il n'en ouit parler que quand les archers viennent.'

⁵⁵ AN X2B 1181, 1611-12-10. 'depuis les a ouy nommé pardevant les laquais qui sont aussy prisonniers.'

⁵⁶ AN X2B 1181, 1611-12-08. 'A dict que n'y a rien ouy dire de cela sinon par les chemins bas qu'il fut mis prisonnier a Molins.'

⁵⁷ Ayrault, *L'Ordre, formalité et instruction justiciare*, 485.

making hearsay part of questioning strategy and his way of reading the existing interrogations. Des Landes repeatedly asked the witnesses whether they recognised a memorable piece of reported speech whose source he concealed, apparently gathered from direct eyewitnesses in a previous interrogation. He asked Champroux's brother-in-law Grossouvre whether he had heard Champroux's brother Beauregard say that 'we must kill the house of Charlus, even the cats and dogs', to which Grossouvre replied 'he had never heard tell of this or opened his mouth to say those words'.⁵⁸ When des Landes asked the lackey Jean Tiger if he had heard such a phrase, Beauregard's exhortation to kill the house of Charlus down to 'the cats and the dogs' became Grossouvre's order to kill 'the rooster and the rest', revealing how earwitness evidence was particularly liable to distortion as it passed further along a chain of hearsay.⁵⁹ Yet des Landes persisted in asking witnesses whether they had heard a variant of this phrase because he suspected that the magistrates who first interrogated the witnesses in the prison at Moulins had deliberately omitted it when making a neat copy of their initial interrogation. 'This copy does not correspond to another signed copy', des Landes reproached the scribe to the *vice-sénéchaussée* of Bourbonnais, as he alleged that 'the archers' deposition has gone missing because it did not correspond with what the others had heard said'. Such a disappearance would have exculpated the Champroux clan who bribed those magistrates with cheese and wine to let them go free during the siege of the château de Champroux.⁶⁰ Indeed, Beauregard and many of his clan did escape and avoided prosecution, leaving their lackeys to face the magistrates.

Beauregard's cousin, Marc Grivel, sieur de Groussouvre, was not so fortunate and was eventually banished from the kingdom along with two of the family's lackeys. In Grossouvre's final interrogation before the criminal chamber of the Parlement, the case's *rapporteur* in Paris, the *conseiller* in the Parlement Prosper Bauyn, sought to confirm the key details of the affair and asked Grossouvre himself whether he said his clan should kill the house of Charlus, including 'the chickens and roosters' – yet another iteration – but once again Grossouvre 'said he never spoke of this'.⁶¹ The various forms taken by Beauregard's, or Grossouvre's, exhortation to kill the house of Charlus 'down to the dogs and the cats', 'the roosters and the rest', 'the chickens and the roosters' shows that the malleability of hearsay made it a particularly

⁵⁸ AN X2B 1181, 1611-12-13. 'Interrogé s'il a ouy dire au chevalier de Beauregard qu'il falloit tous tuer en la maison du conte de Charlis jusques au chiens et aux chats ? A dict qu'il n'a jamais ouy parler ny ouvrir la bouche de tout cela.'

⁵⁹ AN X2B 1181, 1611-12-10. 'le coq et tout le reste'.

⁶⁰ AN X2B 1181, 1611-12-13. 'lad. coppie n'est semblable a une autre coppie de luy collationnée et signée'. 'fut advisé qu'on en perdrait la deposition particuliere dud. archer et autres qui en pourroient déposer par ce qu'ils n'estoient pas tenu en d'accord d'avoir ouy dire cela et croit qu'ils s'en trouverent quelque deposition'.

⁶¹ AN X2A 974, 1612-07-7. 'si ... il dict que il falloit tuer la poulle et les poulets ? A dict qu'il n'en parla jamais.'

useful way to track different interpretations of the same piece of evidence, so that des Landes' sharp reading of the case files allowed him not only to determine the guilt of Beauregard and Grossouvre but also whether the authorities in Moulins were complicit in letting Beauregard get away.

What is perhaps the turning point of the whole series of interrogations concerning Charlus' assassination revolved around hearsay. The key suspect interrogated in Nevers and Paris, the sieur de Grossouvre, tried to distance himself from the allegations just as the lackeys had done. But his task proved harder since des Landes confirmed that Grossouvre had hosted the conspirators in his château for dinner before the hunting trip, although Grossouvre corrected des Landes that they 'left the Thursday morning' rather than staying for two nights.⁶² That dinner preceded, and to an extent concealed, the assassination, since it allowed the party to ride out armed to the hilt with 'pistols, and arquebuses, and large horses', or what Grossouvre dismissed as 'a few pistols'.⁶³ However, Grossouvre denied the hunting party's connection to the assassination. Like the lackeys, he claimed he had 'only heard tell' about the previous 'slight differences' between Champroux and Charlus, and that these differences that had been reconciled after 'the duc de Nevers made them embrace' in order to settle their peace.⁶⁴ Crucially, Grossouvre claimed he had no involvement in the assassination and 'had only heard of it from the rumour that spread' and 'in his house and elsewhere he never heard tell that there was a plan to assassinate the conte de Charlus'.⁶⁵ The marginal annotations to this comment in the manuscript of the interrogations mark out and explicitly comment on the hearsay evidence. Perhaps these annotations came from the *procureur du roi* who drew up his *conclusions* and advised the magistrates on how to judge the case, perhaps they were added by des Landes who was managing instructing the case in Nevers or Bauyn its *rapporteur* in Paris, or perhaps a later reader still who had access to the archive of the Parlement's criminal chamber. The annotation reads 'asked and has only heard tell of the death of Charlus', emphasising how, to at least one reader of the evidence, the way in which hearsay evidence was central to Grossouvre's defence strategy was sufficiently distinctive as to be worth highlighting.⁶⁶

Overall, because of the complexity of the case of the assassination of the conte de Charlus, with its multiple layers of aristocratic intrigue, and large number of lackeys interrogated, hearsay played a significant role in witnesses'

⁶² AN X2B 1181, 1611-12-13. 'qu'ils partirent seulement le jeudy environ midy'.

⁶³ AN X2B 1181, 1611-12-13. 'avec pistoles et harquebouses et de grands chevaux'. 'des pistoles mais fort peu.'

⁶⁴ AN X2B 1181, 1611-12-13. 'qu'il a ouy dire qu'il y avoit eu quelque different entre eulx ... A dict qu'il a sceu par ouy dire que led. sieur duc de Nevers les fait embrasser.'

⁶⁵ AN X2B 1181, 1611-12-13. 'qu'il a bien ouy dire que led. sieur de Charlus a esté tué mais n'en scait rien que par le bruit ... et que jamais il n'a ouy parler en sa maison ny ailleurs qu'on deust assassiner le conte de Charlus'.

⁶⁶ AN X2B 1181, 1611-12-13. 'Denie a oy dire la mort du duc de Charlus'.

denial strategies. This was a notorious case – who had not heard tell of it? – but its very renown gave the witnesses space to deny culpability despite their strong ties to the culprits, many of whom were since deceased, like Champroux, or escaped, like his brothers. Without these culprits, the sheer number of lackeys serving as witnesses only indirectly involved with the case made evidence

from hearsay significant. But what impact did hearsay evidence have on the judgement? In the absence of the *conclusions* of the *procureur du roi* it is impossible to determine this point for certain. The majority of annotations to the interrogations draw attention to established facts about who was involved and where, suggesting that hearsay was not of interest to the annotator apart from the one instance where he drew attention to Grossouvre's denial. Yet considering that des Landes interrogated twenty witnesses in the prisons of Nevers, and that only three of the accused received a final judgement in person, it seems plausible to suggest that most of the lackeys were successful in using hearsay to distance themselves from the assassination at the centre of the allegations, reinforced by their inferior status that placed them at one step removed from their masters' feud, and one table away from the great feast that preceded the hunt.⁶⁷ Beyond the question of 'the chickens and roosters', hearsay did not come up at all during the final series of interrogations of Grossouvre and two lackeys in the Parlement's criminal chamber, led by des Landes' colleague Prosper Bauyn on 7, 9, and 12 July 1612.⁶⁸ Following the preparatory interrogations, the magistrates had isolated Grossouvre as the guilty party on 21 July and he was punished by the confiscation of his property and banishment from the kingdom, along with two of his lackeys.⁶⁹

4. 'EVERIE TRUETH IS NOT TO BE TOLD'

The analysis of the evidence of hearsay presented in this article demonstrates how magistrates in the Parlement of Paris evaluated the ambiguous value of hearsay in complex ways that reflect the sophisticated, discretionary jurisprudence exemplified in Renaissance treatises of Roman law. The cases discussed in this article also reveal that witnesses and the accused knew how to engage with hearsay critically, how hold their tongue and dismiss gossip when it helped their cause by insisting 'that's just hearsay'. As another proverb collected by Randle Cotgrave put it, 'Tout vray n'est pas bon à dire', or 'Everie trueth is not to be told'.⁷⁰ The challenge faced by magistrates in discerning the truth about crime, and evaluating the often weak, fragmented, or fictional evidence presented during interrogations, explains why they gave such critical attention to matters of hearsay evidence, even if in itself it could never stand

⁶⁷ The *arrêt* names twenty accused, of whom seventeen were condemned in their absence.

⁶⁸ AN X2A 974, 1612-07-07, 1612-07-09, 1612-07-12.

⁶⁹ AN X2B 269, 1612-07-21.

⁷⁰ Cotgrave, *Dictionarie*, 'Dire'.

as a source of proof. Material and written evidence presented in criminal investigations could be easy to dismiss in an age before modern forensics, and so oral evidence constituted the principal source of knowledge available to inquisitorial judges, just as it did for witnesses and the accused under interrogation.

Ultimately, this analysis of the Roman law of proof applied in the inquisitorial courtrooms of late Renaissance France reinforces the growing consensus among recent histories of communication concerning the continued primacy of oral culture in the new age of print, but it does so from a new position rooted in legal culture. In a fallen world of abundant information, where truth could be so difficult to discern and rumour ran riot, it still seemed plausible for magistrates to discover the truth about crime based on the word of two valid eyewitnesses. Nevertheless, the deponents who cited the evidence of hearsay in court did not only do so out of common ignorance. It was also possible for witnesses and the accused to conceal the truth through strategic uses of hearsay, a law-mindedness that suggests a familiarity with the epistemological status of rumour that they might have brought to the marketplace and village square too. They made magistrates work hard in order to interpret the evidence of hearsay presented in courtroom testimonies. In these ways, hearsay represented an important object of legal knowledge precisely because witnesses, the accused, and the magistrates proved so adept at manipulating its evidence in the course of criminal proceedings.

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Abstract

This article argues that Renaissance legal culture provided a robust means of evaluating the epistemological status of rumour, informed by the Roman law of proof. In order to do so, the article explores the meaning of hearsay evidence in criminal proceedings from late Renaissance France, focusing on a major series of interrogations for homicide in the Parlement of Paris. It contributes to legal history by demonstrating how the inquisitorial procedures employed by the Parlement's magistrates exemplified the sophisticated Roman law of witness evidence concerning hearsay. And it contributes to social and cultural history by revealing how effectively people throughout the social hierarchy understood the significance of hearsay in all its forms, so that witnesses, the accused, and the magistrates leading their interrogations knew well how to manipulate hearsay evidence to achieve their ends in the courtroom. Ultimately, this approach reinforces the growing consensus among recent histories of communication concerning the continued primacy of oral culture in the new age of print, but it does so from a new perspective that emphasises the fundamental role that oral evidence played in creating legal knowledge.